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NEA FOR FRONT OFFICE AND IPA; NSC FOR SHAPIRO/PASCUAL;  
JOINT STAFF FOR LTG SELVA

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TAGS: [PREL](#) [PGOV](#) [PBTS](#) [KWBG](#) [KPAL](#) [IS](#)  
SUBJECT: ISRAELI HIGH COURT PRESSES GOI ON WEST BANK  
SETTLEMENT

REF: A. GMP20090322739007  
[1](#)B. 08 JERUSALEM 1011

Classified By: Consul General Jake Walles for reasons 1.4 (b) and (d)

[1](#)1. (C) Summary. The Israeli High Court of Justice (HCJ) issued a conditional order on March 24 seeking to compel the IDF to execute demolition orders on nine houses in Ofra settlement built on private, Palestinian-owned land. DefMin Ehud Barak had previously informed the HCJ that he would not execute demolition orders against the houses. The HCJ order shifts the burden of proof, requiring the GOI to, within sixty days, explain its decision not to demolish. An attorney for the Palestinian petitioners complained that Israeli authorities' reluctance to demolish illegally built settler houses contrasts with ongoing demolitions of Palestinian homes in East Jerusalem. End summary.

[1](#)2. (C) The HCJ issued a conditional order on March 24 in favor of Palestinian petitioners (including two Palestinian-Americans) from the West Bank village of Ein Yabrud who seek to compel the IDF to execute demolition orders for nine houses in Ofra settlement. The petitioners presented evidence gathered from the Civil Administration (which issued the demolition orders) that the houses in question were built on privately owned Palestinian land. (Note: 58 percent of land in Ofra is registered under Palestinian ownership according to the Israeli NGO B'tselem. End note.)

[1](#)3. (C) Sarit Michaeli of B'tselem told Poloff on March 24 that there is no difference between Ofra (home to many secular, elite settlers) and "hilltop" outposts illegal under Israeli law, except for the apparent GOI policy to defend the settlement's legitimacy. She said Ofra meets all other criteria for defining an "outpost": it was built mostly on Palestinian-owned land; it lacks a master outline plan; and it lacks a municipal boundary set by the proper Israeli authorities.

[1](#)4. (C) In a widely publicized court filing for a March 23 hearing, DefMin Ehud Barak informed the HCJ that he did not intend to execute the demolition orders for the houses (ref A). According to press reports, Barak cited several reasons for his decision: 1) the homes are inhabited; 2) they are located inside a settlement (not an "outpost"); and 3) Ofra is a sensitive issue, and the decision to demolish would have broad repercussions. (Note: At the time the petition was filed, Poloff visited Ofra and assessed that the houses were 80 percent completed (ref B). A settler from Ofra told Poloff that the houses were occupied. Poloff was not able to confirm that fact independently. End note.)

[1](#)5. (C) Michael Sfard, attorney for the petitioners,

complained to Poloff on March 25 that Israeli authorities' reluctance to demolish illegally built settler houses contrasts with ongoing demolitions of Palestinian homes in East Jerusalem. He said Barak's argument that Ofra is "sensitive" is untenable: "When you think of what happens in East Jerusalem, East Jerusalem is not a less hostile place (politically) than Ofra. When they want to demolish, they do demolish," Sfard said.

WALLES